

## Applicant Details

First Name **Keagan Potts**  
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 Last Name **Potts**  
 Citizenship Status **U. S. Citizen**  
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## Applicant Education

BA/BS From **Loyola University Chicago**  
 Date of BA/BS **April 2016**  
 JD/LLB From **The University of Michigan Law School**  
<http://www.law.umich.edu/currentstudents/careerservices>  
 Date of JD/LLB **May 1, 2021**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **Michigan Law Review**  
 Moot Court Experience **No**

## Bar Admission

Admission(s) **District of Columbia**

## Prior Judicial Experience

Judicial Internships/ Externships	Yes
Post-graduate Judicial Law Clerk	Yes

### **Specialized Work Experience**

### **Recommenders**

Whitman, Christina  
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Caminker, Evan  
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**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

University of Michigan  
Law School

Christina B. Whitman  
Francis A. Allen Professor of Law

734.764.9535  
cwhitman@umich.edu

May 11, 2022

The Honorable John Bates  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4114  
Washington, DC 20001

Dear Judge Bates:

I am writing in support of Keagan Potts, a recent graduate of Michigan Law School, who is interested in clerking for you. Keagan was a student in my Torts class in his first semester of law school, and I supervised a Law Review note he wrote in his second year. Keagan is mature, very bright, and willing to dig deeply in order to produce strong work. He has a thoughtful, friendly manner with an excellent sense of humor. I have been impressed with Keagan, and I also like him very much, so this letter is easy to write.

Keagan studied philosophy as both a graduate and an undergraduate student. He was a remarkable philosophy student, earning a Master's degree summa cum laude and publishing in a professional journal. The publication was actually in a field that I know well: official immunity, specifically for police. He has more recently written an article on medical immunity, which is to be published in a military journal.

In the Torts class Keagan's maturity and intellectual sophistication were a pleasure. I came to depend on him for clear, thoughtful contributions that always moved the discussion forward. When I came to know him outside of class I found that his class performance reflected his essential character. Keagan has an easy manner, but he always tries to be thoughtful about his decisions and his actions. His ultimate grade in Torts (a good but not spectacular B+) did not adequately capture his strengths, even as they were displayed in the exam. Torts was part of his first battery of long law school exams, and he had not yet learned how critical it is to manage his time. There were four questions. Keagan's answers to the first three were superb – comprehensive, insightful, clear, analytically clever, a pleasure to read. But he had little time remaining when he got to the last question, and it showed. I suspect it might be especially difficult to move from philosophy papers to in-class law exams, but Keagan adapted, and his grades continued to rise.

Ironically, Keagan seems to be especially good at managing his time as a general matter. This year he beautifully managed multiple demands -- Law Review, a demanding seminar, and teaching an introductory undergraduate course in cognitive science. He was an exceptional planner and never came close to missing a deadline.

When Keagan asked me to supervise his Law Review note, he selected a particularly difficult topic: the burden of proof that habeas petitioners bear when seeking resentencing under *Johnson v. United States*. Habeas, and especially the barriers to jurisdiction raised by procedural defaults, is a very tricky area even for the sixth-semester students I typically teach in Federal Courts. So is the concept of "legal innocence." Both were involved in this note, and Keagan proposed to educate himself on the topic. He was not taking any relevant course, though he had taken a general course on Prisons and the Law as a first-year student. Frankly, I was discouraging. But Keagan persisted, and he surprised me with the care and insight demonstrated in his first, very early draft. Clearly he is a fast learner of complicated material. After that, I treated Keagan as if he were a sophisticated student of federal jurisdiction. It was a joy working together. Keagan has a fertile analytical mind, and we focused primarily on making the arguments as clear and persuasive as possible to people who would read from varying perspectives. He understood every comment I made immediately and was very fast at redrafting, incorporating and going beyond what we had discussed. I am at the end of a 53-year career of teaching law, and it was so nice to end on a high note.

Keagan made my work as a teacher as easy as possible. He speaks and thinks carefully, and he has a warmth and maturity that I admire. He acts like an adult and takes responsibility as an adult. Keagan would make a wonderful law clerk.

Sincerely,

Christina B. Whitman

Christina Whitman - cwhitman@umich.edu - 734-764-9535

## Applicant Details

First Name	Seth
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Contact Phone Number	6469327391

## Applicant Education

BA/BS From	State University of New York-Binghamton
Date of BA/BS	May 2018
JD/LLB From	University of Pennsylvania Law School
	<a href="https://www.law.upenn.edu/careers/">https://www.law.upenn.edu/careers/</a>
Date of JD/LLB	June 1, 2022
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Asian Law Review
	University of Pennsylvania Law Review
Moot Court Experience	No

## Bar Admission

Admission(s)	Other
Other Bar Admission(s)	Not currently admitted to the bar.

### **Prior Judicial Experience**

Judicial Internships/ Externships	<b>Yes</b>
Post-graduate Judicial Law Clerk	<b>No</b>

### **Specialized Work Experience**

#### **Recommenders**

Struve, Catherine  
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Wolff, Tobias  
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Burbank, Stephen  
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**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

UNIVERSITY OF PENNSYLVANIA CAREY LAW SCHOOL

May 12, 2022

The Honorable John Bates  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4114  
Washington, DC 20001

Re: Clerkship Applicant Seth Rosenberg

Dear Judge Bates:

I understand that Seth Rosenberg is applying for a clerkship in your chambers. Seth, a member of our Law Review, is among the most intellectually engaged students in his class and seeks out opportunities for research and writing. I recommend him with great enthusiasm.

Seth was an outstanding class participant in my spring 2021 Federal Courts class. I used a panel system in that class in order to ensure that I called on each student multiple times during the semester. Seth served on panel during class days when we discussed federal habeas corpus and state sovereign immunity (respectively). Both times, Seth was well-prepared and his comments were uniformly insightful and on-target. He also regularly volunteered thoughtful comments and perceptive questions throughout the semester. (For example, when we were discussing the fact that a federal habeas court has discretion to raise a statute-of-limitations issue when the warden fails to raise that defense, it was Seth who thought to ask whether a court of appeals also possesses that discretion (I had not assigned any reading on *Wood v. Milyard*, 566 U.S. 463 (2012)).) Whether he was aptly addressing a hypothetical fact pattern or astutely critiquing the structure of Chief Justice Rehnquist's opinion in *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996), the comments that Seth volunteered enriched our class discussions. Seth's very strong answers on the final exam placed his grade comfortably in the A-minus range. He did a particularly nice job with an essay question that asked exam-takers to assess how the operation of various doctrines that we had studied in the course would be affected by a plaintiff's decision to seek injunctive, rather than damages, relief.

Seth earned his B.A. *summa cum laude* in Philosophy, Politics, and Law. This interdisciplinary major – with its coursework in philosophy, history, and political science – appealed to Seth because it provided a broad liberal-arts course of study and a lot of opportunities for writing. Mid-way through his undergraduate studies, Seth interned with a trial judge in the New York State criminal court and solidified his interest in studying law. (He took a gap year between college and law school, during which he worked as a paralegal at Williams & Connolly and as an instructor for an LSAT preparation company.) Seth entered Penn Law with a strong continuing interest in studying political science, and this led him to enroll, as well, in the Masters of Public Administration program at Penn's Fels Institute of Government. As you can see from the Fels school coursework on Seth's 2L transcript, he completed four of the required courses for the MPA degree; but over time Seth came to realize that his interests lie more at the law school, and thus he has left the MPA program and expects to weight his coursework more heavily toward law school courses in his 3L year.

Meanwhile, Seth has found time to work as a research assistant for two of my colleagues and as a teaching assistant for my colleague Steve Burbank's 1L Civil Procedure class. He joined both the Law Review and the Asian Law Review. As a board member of the Jewish Law Students Association, Seth organized two events (one featuring a speaker who compared methods of reading texts in Jewish law and American constitutional law, and the other featuring speakers who compared the relationship between church and state in Israel and the United States). As a founding board member of the Disabled and Allied Law Students Association, Seth helped to draft a letter to the faculty urging the use of automated closed captioning in Zoom. I was very grateful for this well-informed and persuasive letter, which alerted me to a feature that I hadn't focused on before, and I adopted its suggestion (and have since made similar suggestions to other groups, such as the ALI, for their online events).

In sum, Seth is a top-notch student with a lively intellect who will be an excellent clerk, and I expect he will get along well with everyone in chambers. Please do not hesitate to let me know if there is any other information that would be useful to you.

Sincerely,

Catherine T. Struve  
David E. Kaufman & Leopold C. Glass  
Professor of Law  
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Catherine Struve - cstruve@law.upenn.edu - 215-898-7068

UNIVERSITY OF PENNSYLVANIA CAREY LAW SCHOOL

May 12, 2022

The Honorable John Bates  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4114  
Washington, DC 20001

Re: Clerkship Applicant Seth Rosenberg

Dear Judge Bates:

It is my pleasure to offer Seth Rosenberg an enthusiastic recommendation for a clerkship in your chambers. Seth is a smart young man with a superb work ethic and a focused analytical mind. He is very well suited to the work of a judicial clerk and will do superb work in whatever chambers snaps him up. I encourage you to take a close look at Seth in the application and interview process.

I have not worked with Seth in a classroom setting. Rather, he has served as a research assistant for me and is now writing a paper under my direction as an independent study. Because of the pandemic and the physical separation it imposed, our work together has been remote — I have not met Seth in person. But that limitation does not qualify the confidence of my recommendation. Seth is a very talented lawyer-in-training.

Seth and I began working on a research project after my friend and colleague Steve Burbank urged me to get to know him. The project on which I requested his assistance is an analytically complex one. I am working on an article about the enforcement of consent decrees entered in one federal district court by another federal court in a different location. The issue draws together questions of subject-matter jurisdiction, federal common law, choice of law and remedies doctrine. I walked Seth through the elements of the analysis that I wanted to explore and described the types of materials I wanted his help in gathering so I could canvas the full range of judicial treatments of this constellation of issues. In short order, Seth produced an excellent research file that included a comprehensive set of cases, some representative academic treatments of the issue, and a substantial annotated description of the materials he had gathered and how they might be useful. It was as good a research file as any I have received from a student.

Seth subsequently asked whether I would supervise his work on an independent study writing a paper about the Supreme Court's decision in *Rodriguez v. FDIC* (2020), a case in which the Court took an ungenerous approach to the role of federal common law in bankruptcy proceedings. As with the research materials Seth helped me gather, this was an analytically complex project in which Seth set out not only to critique the Court's reasoning as a matter of doctrine but to suggest an alternate approach to framing the role of federal courts in developing federal common law. We have met several times to talk about the project and each time I have been impressed with the ambitious scope of his interests and the methodical quality of his thinking. As of this writing, Seth is still early in the process of drafting the paper but what I have seen thus far already carries the promise of a first-rate piece of work.

In short, Seth Rosenberg has analytical chops. He has the talent, the discipline and the work ethic to do superb work in the most demanding chambers. He has earned the opportunity to develop a relationship with a wonderful judge, and I am delighted to lend him my strong recommendation.

Please do not hesitate to let me know if I can be of any further help in your review of Seth's candidacy.

Very truly yours,

Tobias Barrington Wolff  
Jefferson Barnes Fordham Professor of Law  
Deputy Dean, Alumni Engagement and Inclusion  
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UNIVERSITY OF PENNSYLVANIA CAREY LAW SCHOOL

May 12, 2022

The Honorable John Bates  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4114  
Washington, DC 20001

Re: Clerkship Applicant Seth Rosenberg

Dear Judge Bates:

I am delighted to recommend Seth Rosenberg for a clerkship in your chambers. Seth was my student in Civil Procedure and my advisee. He served as my Research Assistant during the summer after his first year, and as my Teaching Assistant in Civil Procedure last Fall. We have talked for hours, and I have a very good sense of his abilities and potential.

Seth came to Penn Law from SUNY Binghamton, where he compiled a stunning academic record, majoring in Philosophy, Politics, and Law, and graduating summa cum laude as a member of Phi Beta Kappa.

My course in Civil Procedure is generally regarded as the most challenging in the first-year curriculum. The doctrinal material alone includes very difficult concepts, but I expect my students to bring to their study of the cases perspectives (from, e.g., history, economics, and political science) that will enable them to get behind the doctrine. I also introduce them to, and expect them routinely to consider, questions of litigation strategy. I call on students "cold" (without prior notice), and I engage them in discussion for twenty minutes or so during each tour of the class.

Seth was the first student I called on during the first class of the Fall 2019 semester. That is not an enviable position to be in, particularly because the course begins with *Sibbach v. Wilson*, a notoriously difficult case in which the Supreme Court first interpreted the Rules Enabling Act of 1934. I remember this only because Seth's performance on that occasion was arrestingly good. He had not only mastered the facts of the case and the doctrine. He had obviously thought a good deal about the policy implications of the Court's decision. I was impressed, as I continued to be throughout the course.

In light of the grasp of the course material that Seth demonstrated in class and office hours, I was not surprised that he wrote the best examination paper in the class, the only one receiving a grade of A+, which I reserve for work that is superior not only on a comparative basis, but also standing alone. Seth's performance in my class was no outlier. He won the Dean's Prize for the highest grades in the First Year. A person of genuine intellectual curiosity, he has excelled throughout the curriculum.

As a result of his stellar work in my course, I asked Seth to serve as my research assistant last summer. I have been collaborating with Sean Farhang of Berkeley for a decade on quantitative and qualitative research that interrogates what we call the counterrevolution against federal litigation. One facet of that research has focused on class actions. Realizing that our data on Supreme Court class action decisions could not ground reliable inferences, if only because there are so few of them, we undertook a project to study class certification decisions in the U.S. Courts of Appeals, compiling a comprehensive dataset of decisions from 1967 through 2019. Preliminary analysis of these data suggested that some conventional wisdom about the tenor of class certification jurisprudence is, if not wrong, then misleading, perhaps because it is based on a small number of Supreme Court decisions. Seeking to situate our analysis of such a disconnect in a larger theoretical context, I asked Seth to conduct a review of the legal and political science literatures that treat the relationship between the Supreme Court and the Courts of Appeals, with special attention to the question of which level is leading and which following.

This was a very ambitious and difficult assignment, if only because it comprehended scholarship in multiple disciplines that deploys multiple research methods. Seth did a superb job, producing a paper of more than seventy pages that cogently surveys the landscape and identifies the primary theoretical approaches and conclusions of the work considered. It was immensely helpful to us in thinking about our empirical results.

I spent a great deal of last summer trying to learn how to teach virtually. After forty-five years of in-person teaching, this was not easy. Early on I decided that I would need a Teaching Assistant who both knew the material I would be teaching and was comfortable with the technology. I turned to Seth, who agreed to serve in that role. He did so with distinction, attending all of the classes, preparing quizzes, and even holding his own office hours.

Seth is drawn to litigation, and he is thoughtful about the special value of clerking for someone with his interests. He will be a superior law clerk. He is very smart, works hard, and writes well. He is respected by peers and faculty alike for his collegiality and would be a valuable and valued member of your chambers team. I recommend him with great enthusiasm and without reservation.

Sincerely,

Stephen B. Burbank

Stephen Burbank - sburbank@law.upenn.edu - (215) 898-7072



David Berger Professor  
for the Administration of Justice  
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Stephen Burbank - sburbank@law.upenn.edu - (215) 898-7072

## Applicant Details

First Name **David**  
 Last Name **Wechsler**  
 Citizenship Status **U. S. Citizen**  
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 Address

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**Zip**  
**10014**  
**Country**  
**United States**

Contact Phone Number **9175477737**

## Applicant Education

BA/BS From **Cornell University**  
 Date of BA/BS **May 2017**  
 JD/LLB From **New York University School of Law**  
<https://www.law.nyu.edu>  
 Date of JD/LLB **May 19, 2021**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **Annual Survey of American Law**  
 Moot Court Experience **No**

## Bar Admission

## Prior Judicial Experience

Judicial Internships/Externships **Yes**  
 Post-graduate Judicial Law Clerk **No**

## Specialized Work Experience

### Recommenders

Samaha, Adam  
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Kaufman, Brett  
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**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

May 12, 2022

The Honorable John Bates  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue, N.W., Room 4114  
Washington, DC 20001

Dear Judge Bates:

David Wechsler is applying for a clerkship in your chambers, and I write to recommend him enthusiastically and without reservation. David is a standout legal thinker with an impressive range of skills, and he is exceptionally well-prepared to be a superb law clerk. Nearly no other applicant enjoys the same collection of analytical precision, poise, and ability to work cooperatively in a team. David will be an unswervingly dedicated and able law clerk. I respectfully recommend that you interview and hire him before someone else does.

David was a student of mine in two large classes plus a seminar. He was terrific in each setting, and got even better each year. In my course for first-year students, Legislation and the Regulatory State, we examine technical doctrine as well as systemic legal questions. We study how courts grapple with statutory language, legislative history, canons of construction, agency regulations, and constitutional claims within particular case settings—yet we also explore how various legal institutions interact with each other and the rest of society. Only exceptionally adept students, such as David, can achieve thorough understandings of both the technical legal elements and the system-wide facets of the course. David was remarkably comfortable with the issues from the start. He was an unerringly prepared and wonderfully reliable participant throughout the semester. All of the above observations hold for his work in my Constitutional Law course during the following autumn. The complexity level in that course is higher still, given the ground that we cover. We study not only constitutional structure and interpretive methods, but also a mix of rights claims. David responded with hard work, a constructive attitude, and remarkable thoughtfulness. His ability to communicate sharp ideas in a welcoming manner was much appreciated.

In our seminar on Constitutional Interpretation during the present academic year, I was able to spend more time with David's ideas about law. The seminar is capped at twenty students and is divided into two parts: foundational ideas about constitutional interpretation, then cutting-edge scholarship on a range of narrower topics. The first part includes short student writings on classic works of scholarship as source material for classroom discussions; the second part involves live discussions with guest authors. David excelled in both parts. His ideas were sophisticated and incisive, and he repeatedly volunteered probing questions for our guest scholars. In his final paper, David considered the developing theory and practice of originalism over the last several decades, and the sometimes surprising connections to progressive or liberal causes during recent years. His writing demonstrated broad knowledge and daring analytical effort, in exploring claims that our constitutional system has become preoccupied with "effective labeling" and has allowed the text to become a "springboard for fringe ideas." I valued greatly David's ability to refine his thinking over time, and to join together his ideas about law, interpretive methods, and broader forces in society beyond courtrooms. He received the top score in the seminar for his participation and writings combined.

As David's electronic record indicates, my experience with him is not exceptional. David has excelled in a range of law school courses and employment experiences. He will start his career as an attorney this coming autumn at one of the nation's leading law firms, he already has developed a special acuity with intellectual property, and he interned with both the ACLU and a judge who is a leading light on the Court of International Trade. Add to all of that David's experiences with banking, policing, and technology issues, he stands out for his dedication and breadth of commitment to law and its proper role in social life. He will take a clerkship as seriously as he has conducted his other pursuits, and he will stand out in that position as well.

Perhaps less obvious from the file is David's solid temperament and relaxed personality. Conscientious and responsive, diligent and quick, David looks for ways to improve everyone's performance. I saw this in the classroom with his fellow students, and in his work as a lead organizer for a law journal symposium on gun regulation reform in which I will participate this spring. David is friendly, intelligent, and efficient—a welcome combination that is, perhaps, too difficult to find in young lawyers. He can juggle many tasks and topics while treating everybody around him with respect. Anyone would be thrilled to join David in the workplace.

As a former law clerk, as an attorney, and as a law professor, I understand the important duties and responsibilities associated with a clerkship. In my judgment, David Wechsler has all of the intelligence, training, skill, and dedication to be a truly excellent law clerk. I hope that you will be convinced of David's ability and commitment to serving your court, and I respectfully recommend that you interview and hire him.

Please contact me at the cellphone number below if I can be of further assistance.

Sincerely,  
Adam M. Samaha  
773 355 1016 (cell)

Adam Samaha - adam.samaha@nyu.edu - 212-998-2660

United States Court of International Trade  
One Federal Plaza  
New York, NY 10278



CHAMBERS OF  
Gary S. Katzmnn  
JUDGE

Dear Judge,

I write on behalf of David Wechsler, who has applied to your Chambers for a law clerk position. David worked for me as an intern in the summer of 2019. I am pleased to support his application with great enthusiasm and without reservation. Indeed, I have encouraged him to seek a clerkship. He will be an outstanding law clerk.

I write with the perspective of some 16 years on the bench, serving twelve years as an Associate Justice on the Massachusetts Appeals Court and, now nearly four years as a Judge on the United States Court of International Trade. David graduated from Cornell University in 2017, with a B.A. in Policy Analysis and Management (and a distinguished 3.94 GPA). Prior to law school, he worked for more than one year in the Investment Banking Division of Goldman, Sachs and Company, managing due diligence as an advisor to clients in complex sales. In 2018, David entered the New York University School of Law.

In the summer of 2019, it was my good fortune that David worked for me as a judicial intern. That his product was outstanding is all the more impressive because he came to Chambers with having just completed his first year of law school. I assigned him a very challenging international trade case, requiring navigation of a complex administrative record, analyzing

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numerous briefs, and mastering a myriad of difficult issues of substantive law, jurisdiction and procedure. Extraordinarily conscientious, David was totally thorough in his research and writing – indeed, going above and beyond. His college and work experience no doubt contributed to his comfort with detail and complex records and arguments. He showed tremendous capacity to parse complicated questions. He did an excellent job drafting questions that were sent to the attorneys in advance of oral argument. He also wrote a comprehensive bench memorandum that set out the questions carefully and in a balanced way addressed the positions of the litigants. David writes clearly and concisely. His memorandum was very useful to me as I considered how the case should be adjudicated. I truly valued our discussions.

Wonderfully efficient, David is a self-starter who has the quiet confidence to ask questions. He embraced suggestions and welcomes feedback. He will turn around a draft without delay. I was so impressed with David's work that I asked him to review drafts in other cases not his own. Earnest and humble, an engaging conversationalist, collegial and a true team player, David quickly became a valued member of Chambers. We were all sorry to see him leave when the summer ended.

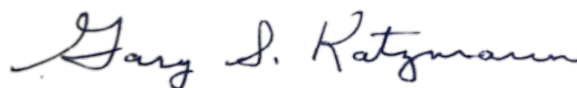
Quite apart from his academic excellence in law school, David has taken on many activities that will only enhance his work as a law clerk. He has been a research assistant for a professor and has been named Managing Editor of Solicitations for the Annual Survey of American Law. I have been impressed by David's hope that he can apply his legal training for the betterment of the community. That is more than an aspiration, as demonstrated by his involvement as an advocate for the Suspension Representation Project on behalf of students in New York City public schools, and by his service during the coming year as a Student Legal Fellow for the NYU Policing Project.

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It does not take long in conversation with David to understand that he has wide-ranging interests and curiosity. He is also well-rounded— not simply a sports fan, he is in fact a high school golf champion and participant in NYU's Deans' Cup Basketball Team. His enthusiasm lifts the spirits of all around him.

I am confident that David will be a leader in the years ahead in the best and broadest traditions of the legal profession. I think that his will be an outstanding career. I am pleased to recommend David Wechsler for a judicial clerkship with great enthusiasm and without reservation. I am happy to chat further. Please do not hesitate to contact me at (212) 264-1757.

Very truly yours,

A handwritten signature in dark ink, reading "Gary S. Katzmann". The signature is fluid and cursive, with the first name "Gary" being the most prominent.

Judge

September 3, 2020

**RE: David Wechsler, NYU Law '21**

Your Honor:



National Office  
125 Broad Street, 18th floor  
New York NY 10004  
(212) 549-2500  
aclu.org

It is my pleasure to strongly recommend David Wechsler for a clerkship in your chambers. In my eight years as an attorney for the American Civil Liberties Union and my six years as a teacher in the NYU Technology Law & Policy Clinic, I have had the privilege of supervising an extraordinarily talented group of legal fellows, interns, and law students. Among them, David stands out, particularly for his creative legal thinking and outstanding legal writing abilities. Based on these qualities and my own past experiences as a judicial clerk for three different federal judges, I am confident that he has what it takes to be a wonderful law clerk.

During David's semester in the clinic under my supervision, he very much impressed me and my ACLU colleagues with a truly fantastic project. David and a partner were assigned to work with ACLU staff attorneys to prepare a full litigation memorandum concerning a potential mass aerial surveillance program over an American city. Specifically, David conducted factual and legal research and reconsidered precedential opinions addressing aerial surveillance in light of the Supreme Court's recent decision in *Carpenter v. United States*, 138 S. Ct. 2206 (2018). As fortune would have it, just weeks after David and his partner put the finishing touches on their memorandum—which addressed standing, state action under 42 U.S.C. § 1983, and the merits of Fourth and First Amendment claims, among other smaller issues—the City of Baltimore voted to implement a system just like the one their memorandum had contemplated. Because of the excellent work David and his partner did in putting together a comprehensive 50-page litigation plan, the ACLU was poised to file a lawsuit on an unusually fast timeline, and we thanked the students publicly for their efforts at the end of our initial brief.

David's assignment was a real challenge. It required creative approaches to distinguishing old, seemingly on-point precedent holding various types of aerial surveillance of public places unconstitutional. It required a deepread of (and many in-depth discussions with ACLU staff attorneys about) *Carpenter*, in addition to recent judicial and academic applications of it, and a projection of how its conclusions could support claims in our potential lawsuit. And it required an analytical approach that was broad enough to cover various potential aerial surveillance systems without



David Wechsler, NYU Law '21  
September 3, 2020  
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knowing which, if any, would ultimately be at issue. Despite these challenges, the work was an unqualified success.

Moreover, David had very little familiarity with Fourth Amendment law (and ACLU positions on those issues) coming into the project, but was able to prepare himself for deep engagement in a relatively short time frame—no doubt, the ideal type of training for a future law clerk. He threw himself into academic scholarship and reams of old cases to first think through, outline, and discuss our potential arguments, then to draft fair-handed and honest analysis evaluating the strengths and weaknesses of our arguments. Not only did he get up to speed quickly, but he became fluently conversant in the issues, and participated in complex discussions with his partner, me, and my ACLU colleagues about the arguments we were considering, often challenging our assumptions or bringing to light complications or arguments we hadn't fully considered. Building off of this experience, he applied to become and was accepted as a year-long legal fellow in the NYU School of Law's Policing Project beginning next fall.

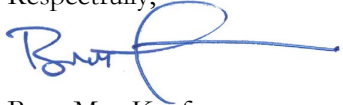
As a former appellate and district court clerk, I know how much a top-notch writing ability—clarity, organization, thoroughness, and readability—is prized in chambers. Having supervised David on a complex writing project, I am confident he is a smart bet to produce organized, thoughtful, high-quality work on a rigorous timeline as a clerk. His drafts were carefully argued and thought-through, not to mention cleanly presented and accurately cited (no doubt helped by his experience on the *Annual Survey of American Law*). In addition, I was especially struck by David's receptiveness to criticism, and his advanced ability to productively implement comments from me and others. Having to defend his work to subject-matter experts at the ACLU as a professional colleague, rather than simply a student, was an experience that was at once humbling and confidence-building for David. I know from our private supervisory conversations that he learned tremendously from these experiences, which made him extremely excited about becoming a lawyer, and about the unique and rewarding experience of being a law clerk.

Finally, our clinic does not focus only on output; rather, we consistently emphasize process. David was consistently engaged in our class discussions about lawyering, ethics, and the interaction of law and technology. In particular, he led a quite memorable and well-prepared session about various forms of algorithmic decision making (including a fair assessment of their benefits and perils), with concrete examples, excellent classroom prompts, and a knack for facilitating discussion. Little wonder, then, that David was one of the most active and helpful contributors to other students' workshops of their own clinical projects. He regularly demonstrated that he had deeply engaged with their work and had put in time to think about ways to improve it, all while remaining modest and even-keeled. These are the marks of an excellent colleague, and David was indeed respected and admired by his colleagues and his teachers.

David Wechsler, NYU Law '21  
September 3, 2020  
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Thank you for your consideration of David. I strongly recommend that you hire him as your clerk. If I can offer any further information or be of assistance in any way, please do not hesitate to contact me by email or phone.

Respectfully,



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